

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

In re)	
)	
CAROLINA TOBACCO COMPANY,)	Appeal No. 06-1170-KI
)	<i>(Bankruptcy Case No.: 05-34156-elp11)</i>
Debtor,)	
)	Chapter 11
Settling States, ¹)	
)	OPINION AND ORDER ON
Appellant and Cross-Appellee,)	MOTION FOR ENTRY OF
)	JUDGMENT
vs.)	
)	
Carolina Tobacco Company,)	
)	
Appellee and Cross-Appellant.)	
)	

¹The "Settling States" refers to those states that entered into the tobacco Master Settlement Agreement in 1998. The term includes all of the United States except for Florida, Minnesota, Mississippi, and Texas (which settled their litigation with the tobacco industry separately), and six other jurisdictions - American Samoa, the District of Columbia, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. While Carolina is not currently selling its cigarettes in all of the Settling States, certain of the terms of its plan as originally proposed (and as requested in its cross-appeal) would affect all of those states and they have, accordingly, all joined the appeal.

Tara J. Schleicher
Peter C. McKittrick
Farleigh Witt
121 SW Morrison, Suite 600
Portland, Oregon 97204

Attorneys for Carolina Tobacco Company

Samuel R. Maizel
Pamela E. Singer
Pachulski Stang Ziehl Young Jones
& Weintraub LLP
150 California Street, 15th Floor
San Francisco, California 94111-4500

Karen Cordry
National Association of Attorneys General
750 First Street, NE, Suite 1100
Washington, D.C. 20002

Attorneys for Settling States

KING, Judge:

Thirty-four states and the District of Columbia (the “States”) filed a Statement of Election under 28 U.S.C. § 158(c) to have their appeal of the bankruptcy court’s Order Confirming Third Amended Plan of Reorganization Dated October 18, 2005 (As Modified February 24, 2006) (“Order”) heard by the District of Oregon. The debtor filed a cross-appeal. The Court entered an Opinion and Order (#621) on January 8, 2007 affirming the bankruptcy court’s Order and dismissing the appeals. The States filed an Amended Motion for Rehearing of Opinion and Order (#625), which the court denied. Before the court is the States’ Motion for Entry of Judgment by the Court Pursuant to Fed. R. Civ. P. 58(d) (#630).

Page 2 - OPINION AND ORDER ON MOTION FOR ENTRY OF JUDGMENT

LEGAL STANDARDS

Federal Rule of Civil Procedure 58(d) provides that a “party may request that judgment be set forth on a separate document as required by Rule 58(a)(1).” Rule 58(a)(1), in turn, provides that “[e]very judgment and amended judgment must be set forth on a separate document” with the exception of several enumerated orders.

DISCUSSION

Although the Court intended the Opinion and Order of January 8, 2007 affirming the bankruptcy court’s Order and dismissing the appeals to be the final decision of the Court, and believed that it was sufficiently clear to alert the parties that the time for appeal had begun to run, after reviewing the parties’ briefing on the States’ Motion for Entry of Judgment, the Court concludes that Federal Rule of Civil Procedure 58(d) requires the Court to set forth its judgment in this case on a “separate document.” Consequently, the Court’s denial of the States’ Motion for Rehearing on the basis of timeliness is incorrect.

CONCLUSION

Based on the foregoing, the States’ Motion for Entry of Judgment by the Court Pursuant to Fed. R. Civ. P. 58(d) (#630) is granted.

IT IS SO ORDERED.

Dated this 22nd day of May, 2007.

/s/ Garr M. King
Garr M. King
United States District Judge